

### **REMARKS/ARGUMENTS**

The office action of November 23, 2005, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. This response is being filed concurrent with the filing of a Request for Continued Examination and information disclosure statement. Claims 1-6 and 8 have been amended to further clarify the scope of protection. Claim 7 has been canceled without prejudice or disclaimer. Claims 9-29 have been added. Claims 1-6 and 8-29 remain pending.

Applicants have amended various portions of the Specification to further clarify the description. No new matter has been added.

### **Request for Examiner Interview**

**Applicants hereby request an Interview with the Examiner prior to the next action on the merits in order to discuss pending claims.** Applicants respectfully request the Examiner to contact Applicants' undersigned representative at the number below to arrange such an Interview at the earliest convenience of the Examiner.

Claims 1, 3-4, and 7-8 stand rejected under 35 U.S.C. 102(b) as being anticipated by Webb (U.S. Patent No. 5,685,774, hereinafter referred to as *Webb*). Claims 5-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable *Webb*. Applicants respectfully traverse.

Applicants' amended claims 1 and 8 each recite, among other features, "comparing the at least one player's best four card hand against the dealer's best four card hand and excluding all extra cards dealt to determine a relative ranking therebetween." As allegedly describing this feature of Applicants' claims 1 and 8, the Action relies on column 7, lines 36-40 of *Webb*. Applicants submit that neither the cited portion nor any other portion of *Webb* teaches or suggests this feature of Applicants' claims 1 and 8.

*Webb* is directed to a method of playing card games in which a player may wager against either a predetermined payout schedule, a dealer's hand, or both. (Abstract). *Webb* describes three-, four-, and five-card versions of playing card games; however, the four- and five-card versions are based upon a best five card hand. For example, column 3, lines 38-44, recites,

In a four-card version of the game, each player may receive a wild card which the player may place with each four-card hand to make a **five-card poker hand**. A similar wild card may be used in a five-card game, each player discarding a card and substituting this wild card to make a **five-card poker hand**. In either case the dealer is preferably also provided with a wild card to be used in the same way. (Emphasis added).

Similarly, column 8, lines 37-57, recites,

The card of FIGS. 4-6 has a dual function; in playing the game it is used as a wild card; subsequently the card can be taken away by the player and retained as a memento and also serves as a promotional item. In a three-card version of the game described above, a player may be provided with two standard cards and a wild card to form a three-card hand. Alternatively, at least one player may be provided with three cards and be permitted to discard one card in order to form his/her best three-card hand using the wild card. Similarly, in four and five-card versions of the game a wild card of the kind shown in FIGS. 4-6 may be issued to each player and to the dealer. The players and dealer then use the wild card repeatedly in conjunction with each four card hand dealt to them to make a five-card poker hand. In a five-card game each player and the dealer may substitute the wild card for any card in their hand to improve the five-card hand they hold. This has the result of creating higher hand values and adding excitement to the game. According to each of these embodiments, the dealer is also preferably provided with the same number of standard cards and a wild card as provided to each player. (Emphasis added).

As described in the passages above and throughout the remainder of *Webb*, when in a four-card version of the game, the best five-card hand of a player is compared to the best five-card hand of the dealer. As such, *Webb* fails to teach or suggest Applicants' claims 1 and 8 feature, "comparing the at least one player's best four card hand against the dealer's best four card hand and excluding all extra cards dealt to determine a relative ranking therebetween." Withdrawal of the present rejection is respectfully requested.

Claims 3-6, which depend from claim 1, are patentably distinct over *Webb* for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein. For example, *Webb* fails to teach or suggest Applicants' claim 3 feature, "each of the dealer and the at least one player continue play with a best hand achievable by any four of the five dealt cards and exclude the fifth card, the method further comprising a step of determining the best hand by comparing the four card combination of the at least one player's hand against

the dealer's hand." At best, *Webb* describes a five-card version of a card playing game where a player's five-card poker hand is compared to the dealer's five-card poker hand. (Col. 3, lines 40-43 and col. 8, lines 45-50).

Applicants' claim 7 has been canceled without prejudice or disclaimer. Thus the present rejection of claim 7 is moot. Applicants' have added new claims 9 and 10. No new subject matter has been added with this amendment. Applicants' new claims 9-10, which depend from claim 1 and 8, respectively, are allowable over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.

Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Webb* in view of *Scott et al.* (U.S. Patent No. 6,102,402, hereinafter referred to as *Scott*). Applicants respectfully traverse the rejection.

Applicants' claim 2 depends from claim 1. *Scott* fails to cure the deficiencies of *Webb* as described above with reference to Applicants' claim 1. As such, even assuming, without admitting, that the motivation to combine *Webb* and *Scott* is proper, the combination of references fails to teach or suggest each and every feature of Applicants' claim 2. Therefore, withdrawal of the rejection of claim 2 is respectfully requested.

### ***New Claims***

Applicants' new claims 11-29 are fully supported by Applicants' original written description and drawings. No new matter has been added by the addition of these claims. Applicants' new claims 11-29 include similar features as described above with reference to Applicants' claim 1. *Scott* fails to cure the deficiencies of *Webb* as described above with respect to Applicants' claim 1. As such, for at least similar reasons as described above with reference to Applicants' claim 1, Applicants' claims 11-29 are patentably distinct over *Webb*, either alone or in combination with *Scott*.

**CONCLUSION**

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,  
**BANNER & WITCOFF, LTD.**

Dated: July 17, 2006

By: /Ross Dannenberg/  
Ross Dannenberg  
Registration No. 49,024  
1001 G Street, N.W.  
Washington, D.C. 20001-4597  
Tel: (202) 824-3000  
Fax: (202) 824-3001